

REMARKS

Claims 41-85 are presently pending in this application. To simplify prosecution at this stage, Claims 1-40 have been cancelled without prejudice. In addition, independent claims 41, 62, 71, 78 and 85 have been amended. Reconsideration is respectfully requested.

The Examiner has rejected the claims under consideration as being obvious over Stern (6,486,892), Gerace (5,848,396) and Mao (6,459,427). Specifically, the Examiner has rejected Claims 41-61 and 85 over a combination of Stern and Gerace. The Examiner has rejected Claims 62-70 and 71-84 over a combination of Mao and Gerace. Gerace relates to a method and apparatus for determining the behavioral profile of a computer user. Stern relates to a system and method for accessing content based on a dynamically updated user profile. Mao relates to an apparatus and method for webcasting over a digital broadcast tv network.

The Applicants' invention differs from all of these cited references in a quite fundamental way. In the cited references, a form of *predictive control* is effected to gather individual user preferences and then exploit those preferences in providing customized content to each user. In contrast, the Applicants' invention employs a form of *adaptive control* where the aggregate behavior of an aggregate audience is measured and then used to supply content to the entire audience. To assist the Examiner in understanding these important differences, two teaching figures (Fig. A and Fig. B) are incorporated into this response. Fig. A provides an explanation of the prior art predictive control techniques exemplified by the references cited by the Examiner.

Fig. B explains the adaptive control technique according to teachings of the Applicants' specification.

Referring to Fig. A, the prior art predictive control technique meters individual user's actions as illustrated. Note that the individual user's actions are thus monitored (at each individual user client) and then represented as individual user preferences. Note in Fig. A there are separate preferences for each individual user. The individual user preferences are then used by the predictive control algorithm to supply customized content to each individual user, based on that user's preferences.

The Examiner will appreciate that the cited references do employ this type of predictive control, as they all make reference to capturing user preferences (which are understandably needed if one is trying to deliver customized content to each individual).

Referring now to Fig. B, the Applicants' teaching meters (measures) the content being delivered to an aggregate audience. This is represented as an aggregate audience metric that is then used by the adaptive control algorithm to supply to content to entire audience, based on the aggregate metric. Thus, in a system according to the Applicants' teachings, the objective is to optimize the content being sent to an aggregate audience and not to customize that content for individual users.

As Figs. A and B illustrate, the predictive control techniques exemplified by Stern, Gerace and Mao, taken in combination as the Examiner has suggested, will not achieve the Applicants' result whereby content to an entire audience is regulated based on aggregate audience metrics. Indeed, the use of Stern, Gerace and Mao in an attempt to achieve this would produce a very undesirable result, whereby the user preference of an identified individual would control what is broadcast to an entire audience. Placing

any one individual into such a super-user status would not satisfy the needs of the aggregate audience at all.

In order to more fully distinguish the Applicants' invention from the art, Applicants' independent claims have been amended to recite that Applicants' invention works with aggregate behavior. Thus, in Claim 41, the audience interaction monitor system is now recited as an aggregate audience interaction monitor system that generates at least one audience metric corresponding to aggregate usage by plural persons within the second portion of the audience. The remaining independent claims have been amended in a similar fashion to clarify the aggregate nature of the Applicants' systems and methods.

In view of these amendments, it is respectfully submitted that the presently pending claims now fully distinguish over the art of record. Simply stated, the art of record does not teach or suggest the use of aggregate metrics as taught by Applicants. Accordingly, it is respectfully submitted that Claims 41-85 are now in a condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt

and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: Gregory A. Stobbs
Gregory A. Stobbs
Reg. No. 28,764

HARNESS, DICKY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600